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REMARKS

The courtesy of the telephone interview granted by Examiner Vanaman to the undersigned attorney on September 27, 2004 is acknowledged with thanks and appreciation. During the course of the interview, the Zieske '975 and Laubauch '064 references were discussed with respect to the independent claims 1 and 31. No agreement was reached with respect to the allowance of these claims. However, the Examiner indicated that he would reconsider the rejection of the claims over the alleged combination of Zieske '975 and Laubauch '064 by the presentation of the arguments that were made at the interview and are presented below.

By the present amendment, claims 10, 20, and 38 have been amended to correct some clerical errors. Claims 1-7 and 9-51 are pending. Claim 8 has been cancelled. Reconsideration of the rejection of the claims is requested in view of the foregoing amendments and the remarks set forth hereinafter.

Drawing Objections

The drawings were objected to under 37 C.F.R. § 1.83(a) because there was no showing of a "threaded plate" adapted to abut the vehicle frame as in claim 20. By the present amendment, claim 20 has been amended to remove reference to a threaded plate do to a clerical error, the correct term "flat plate" rather than "threaded plate". In view of the foregoing, it is believed that the objection to the drawings has been obviated.

Applicant has submitted a request for an amendment to FIG. 4 to change the numeral 132 to 130. The change appears to be evident from FIG. 3 and FIG. 6.

It is believed that the drawings have no formal impediments and are in condition for approval. The Examiner is requested to approve the formal drawings.

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Specification Objections

The specification was objected to as failing to provide antecedent basis for the claimed subject matter of claim 20. Claim 20 as now amended no longer refers to a threaded plate rather than a flat plate which is item 194 in FIGS. 10 and 11. Applicant believes that the specification now completely supports all of the claims.

Claim Objections

Claims 10-12 have been objected to because the claims are written as dependent from claim 8 which has been cancelled. By the present amendment, claims 10-12 have been amended to depend from claim 6. It is believed that all of the claims are free from formal objections.

Claim Rejections – 35 U.S.C. § 112

Claim 20 is rejected under 35 U.S.C. § 112 second paragraph as being indefinite because there is no antecedent basis in the claim for the “threaded plate”. This phrase has been replaced by the “flat plate” which finds antecedent basis in claim 19. It is thus believed that the amendment to claim 20 has obviated the rejection of claim 20 under 35 U.S.C. § 112.

Claim Rejections – 35 U.S.C. § 103

Claims 1-7, 9, 10, 13, 14, 25, 26, 27, 32, and 33 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Zieske U.S. Patent No. 5,950,975 in view of the Laubach U.S. Patent No. 5,895,064. This rejection is respectfully traversed.

The alleged combination of Zieske '975 and Laubach '064 is traversed for all of the reasons set forth in Applicant's Amendment and Response to Office Action filed April 19, 2004.

The Zieske '975 reference discloses an adjustable bracket which comprises a tube that is bent at two central portions about an angle of about 45° to offset a frame mounting end from a fender mounting end. The two ends of the Zieske '975 tube are connected by a central portion that extends at about a 45° angle to the axes of the two ends. Zieske can adjust the position of the fender mounting end with respect to the frame mounting end about two axes but is limited to

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radial adjustment about the pivotal mounting of the bracket to the vehicle frame. In other words, the Zieske '975 mounting bracket can adjust the fender mounting end of the bracket along the X-Y axis that is parallel to the vehicle frame but cannot adjust the position of this end of the bracket along the Y axis independent of movement along the X axis. The movement of the outer end of the Zieske '975 bracket is limited to a circle. Further, Zieske does not recognize a need to make these X-Y adjustments independent of each other.

The problem that Applicant has solved has not been recognized by Zieske and thus it would be wholly inappropriate to modify Zieske to make the tubular support adjustable along the length between the two ends. Further, there would be no reason to provide the Laubach adjustable length between the two ends of the Zieske bracket because to do so would also inherently adjust the lateral or sideways position of the bracket ends (along the Z axis) at the same time any offset is adjusted between the frame mounting axis and the fender mounting axis of the Zieske '975 bracket. Any lateral offset adjustment between the ends of the Zieske bracket, which would be inherent in a length adjustment along the 45° central portion of the bracket, would move the fender mounting portion of the bracket farther away from the frame which would be wholly undesirable. There is a relatively small tolerance between the vehicle frame and the fender that must be maintained. This tolerance may not in all cases be maintained with a length-wise adjustment of the central portion of the Zieske '975 bracket. Thus, not only is the Examiner's suggested modification of the Zieske '975 not suggested, it would produce an undesirable result in that it would cause an inappropriate lateral adjustment of the ends of the Zieske bracket while at the same time adjusting the offset between the frame mounting end and the fender mounting ends of the Zieske bracket.

There is yet another reason that the alleged combination of Zieske '975 and Laubauch '064 is inappropriate. Adjustment of the length of the central portion of the Zieske '975 bracket would increase the likelihood that the outer central portion of the Zieske '975 bracket would contact the truck tire, especially in jounce and rebound that occur when the wheel contact bumps in the road during operation of the vehicle. As the central portion of the Zieske '975 bracket is

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lengthened, the outer portion of the 45° central portion extends further into the area reserved for the vehicle tire. Needless to say, this contact would be wholly undesirable.

The alleged combination and modification of Zieske would also be inappropriate because there is no suggestion how the tubular structure of Zieske '975 could be modified to make the bracket adjustable between the ends. The Zieske bracket is a one piece tube that is bent in two places. The Examiner has not suggested any manner in which the Zieske bracket could be modified to make it adjustable between the ends. Laubach does not teach any way in which the tubular bracket could be adjustable between its ends.

Even though the Zieske '975 and Laubauch '064 references do not suggest how the alleged modification to the Zieske '975 bracket could be made, and assuming, *arguendo*, that the idea of making the parallel offset between the ends of the Zieske '975 bracket adjustable, one might devise a telescoping connection of the central portion of the Zieske '975 tubular bracket. This arrangement might be the first way that one skilled in the art would modify Zieske '975 to make the offsets between the ends of the bracket adjustable. However, such an arrangement would make it difficult to maintain the parallel relationship between the two ends of the Zieske '975 bracket. The parallel relationship between the two ends of the Zieske '975 bracket is quite important to mounting of the fender in a proper horizontal orientation. The examiner's proposed combination would likely introduce more complications that would be obvious to one who is skilled in the art of fender mounting brackets. It is clear from the Zieske '975 disclosure that the elongated tubular structure is quite important to the Zieske '975 bracket so that the fender mounting plate can be rotationally mounted to the outer end of the tubular bracket. Thus, there is yet another reason that the alleged combination of Zieske '975 and Laubauch '064 would be inappropriate because the suggested modification would create problems in maintaining the parallel orientation of the fender and frame mounting ends of the bracket.

In view of the foregoing, it seems clear that it would not be obvious to modify the Zieske '975 bracket in view of the Laubach '064 reference, or any other reference that shows an adjustable length bracket, to make the Zieske tube adjustable between the ends thereof.

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In view of the foregoing, it is apparent that the Zieske '975 patent cannot be modified as suggested by the Examiner with the Laubach '064 reference make the offsets of the parallel ends of the Zieske '975 bracket adjustable in view of the Laubach '064 patent. It is therefore believed that claims 1-7, 9, 10, 13, 14, 25, 26, 27, 31, 32, and 33 are patentable over the alleged combination of Zieske '975 in view of Laubach '064 because the alleged combination fails. These claims distinguish over the Zieske patent in calling for a length adjustable link to selectively adjust the offset distance between the longitudinal axis of elongated support on the axis of rotation of the bracket assembly (claim 1 and the claims dependent therefrom) and in calling for a length adjustable connection having a first portion connected to the elongated support arm and a second portion adapted to be rotatably mounted to the vehicle frame at a rotational axis spaced from the longitudinal axis of the elongated arm wherein the offset spacing between the arm longitudinal axis and the rotational axis can be changed by adjusting the length of the link. This concept is not disclosed in Zieske or in Laubach '064 nor in any tenable combination thereof.

Claims 15, 16, 17, 19, and 34-37 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Zieske '975 in view of the Laubach '064 patent and further in view of the Laribee U.S. Patent No. 4,181,293. This rejection is respectfully traversed.

The combination of Zieske '975 in view of Laubach '064 and in view of Laribee '293 is traversed. The uncombinability of Zieske '975 and Laubach '064 has been discussed above and is equally applicable here. The Laribee '293 patent bears no resemblance to the Zieske or Laubach references. The Laribee '293 references is cited to show serrations between a pair of brackets which are adjustable with respect to each other. There is no suggestion in either of the Zieske '975 or the Laubach '064 references as to any type of serrations between adjustable parts. The Laribee '293 patent discloses nothing with respect to brackets for mounting fenders or for mounting running boards onto vehicles. The Examiner's conclusory statement that the combination would ensure that a particular configuration of the two brackets positively maintained is not evidentiary support for the alleged combination. It is simply a conclusion which the Examiner has drawn without any factual basis.

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In view of the foregoing, it is believed that the alleged combination of Zieske '975 in view of Laubach '064 and Laribee '293 is inappropriate. In view of this, the Examiner's rejection of claims 15, 16, 17, 19, and 34-37 should be withdrawn.

Claims 15, 16, 17, and 19 depend from claim 1 and define over Zieske '975, Laubauch '064, and Laribee '293 in the same manner as claim 1. Claims 34-37 depend from claim 31 and define over each of these three references in the same manner as claim 31. It is thus submitted that claims 15, 16, 17, 19, 34-37 patentably define over these three references and are not obvious under 35 U.S.C. § 103(a). Withdrawal of the rejection is respectfully requested.

Claim 30 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Zieske in view of Laubach and the Lengd Kalinin Poly Soviet Union Patent No. 925-727. This rejection is respectfully traversed.

The alleged combination of Zieske '975 in view of Laubach '064 and the Lengd Kalinin '727 patent is traversed. There is no basis for making the combination and the Examiner has provided none in his Office Action. The uncombinability of Zieske '975 and Laubach '064 has been discussed above and is believed equally applicable in this combination. In addition, there is nothing to suggest mounting the Lengd Kalinin '727 spring between a frame and a fender. Where would the spring be placed in the Examiner's alleged combination of Zieske '975 and Laubach '064? Between the frame and the fender? The Examiner stated that it would have been obvious to provide a spring mounting the fender to the arm of Zieske without any plausible basis. This conclusory statement has no basis in fact. Thus, the alleged combination of Zieske '975, Laubach '064, and Lengd Kalinin '727 is inappropriate and cannot be tenably combined in order to meet Applicant's claim 30.

Even if the alleged combination of Zieske '975, Laubach '064, and Lengd Kalinin '727 were to be made, however untenably, it still would not reach Applicant's claimed invention. The alleged combination would mount a spring between a vehicle frame and a fender and not between the fender and the fender mounting bracket of Zieske. This combination fails to meet the combination of claim 30 because it would not have a vibration decoupling connector connecting the support arm to the fender. The spring is not a vibration coupling connector. The

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spring does not decouple the vibrational forces between the fender and frame. An insulating absorber must be used for this purpose. Thus, the alleged combination of references cited by the Examiner against claim 30 do not even meet limitations of claim 30 with the untenable combination proposed by the Examiner.

It is noted with appreciation that claims 18, 21-24, 28, 29, and 38-51 are objected to as being dependent on a rejected base claim, then claim 20 would be allowable if rewritten to overcome the rejection under 35 U.S.C. § 112 and that claims 11 and 12 are also objected to as being dependent on a cancelled claim but would otherwise be allowable. In view of Applicant's position as to the independent claims, these claims have not been rewritten in independent form.

In view of the foregoing remarks and amendments, it submitted that all of the claims are in condition for allowance. Early notification of allowability is respectfully requested.

Respectfully submitted,

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